Testimony before the House Energy and Commerce Committee's Health Sub-Committee by Stephen A. Moses, President, Center for Long-Term Care Financing (www.centerltc.org) on April 27, 2005

"Long-Term Care: Who Should Pay? Who Does Pay? Who Will Pay?"

Mr. Chairman and members of the Committee: thank you for inviting me to speak with you about the critical subjects of Medicaid and long-term care financing.

My brief remarks today are fully developed and documented in reports published on our website at www.centerltc.org .

If the question is "Who should pay for long-term care?," the average person will answer "Anybody but me." Denial is commonplace.

Next best, people say "Everyone should pay." Hence, we see a tendency to pass the financing burden on to government.

Finally, if nothing else works, most people will prepare to pay their own way. That's when they turn to private savings, investments, home equity or insurance.

Winston Churchill said "You can trust the Americans to do the right thing, but only after they've tried everything else first."

So, let's ask: What have we tried already in long-term care financing? That is, who does pay for long-term care and what have been the consequences?

Answer: the vast majority of all formal long-term care services are financed by government.

Although Medicaid pays only half the dollars for nursing home care, it covers two-thirds of nursing home residents and touches nearly 80 percent of all patient days with its notoriously low reimbursement rates.

Even the so-called "out-of-pocket" expenditures for nursing home care--which are down from 39 percent to 25 percent in the past 15 years--come mostly from Social Security benefits that Medicaid recipients have to contribute toward their cost of care.

At 13 percent, Medicare is a much larger payer for nursing home care than most people realize.

For home care, only 18 percent of the costs are paid by patients. The rest comes primarily from Medicare and Medicaid.

Now, what has this heavy dependency on public financing of long-term care achieved?

We have a severely dysfunctional, welfare-financed, nursing-home-based long-term care system that serves no one well, least of all the poor.

Long-term care today is plagued by institutional bias, too little home and community-based care, bankruptcies, inadequate revenue, a dearth of capital, staff shortages, access and quality problems, huge tort liability, unaffordable liability insurance, too few full-pay private payers and too many low-pay Medicaid recipients.

How in the world did we get into such a mess?

In 1965, Medicaid came along and started paying for nursing home care.

The nursing home industry saw a huge new source of revenue and naturally built more facilities as fast as they could raise the walls.

The public figured nursing home care was free, so why pay out of pocket for home care or insurance?

That's how institutional bias began and that's why a market for home care, assisted living and long-term care insurance did not begin to develop until decades later.

Before long, of course, Medicaid nursing home costs exploded.

Figuring, "they can't charge us for a bed that doesn't exist," government capped the supply of nursing home beds by requiring certificates of need (CONs).

But capping supply only drove up the price as nursing homes raised their rates to compensate. So Medicaid capped what it would pay for nursing home care.

In turn, nursing homes raised rates for private payers to make up the difference. That was the origin of "cost shifting" from Medicaid to private payers.

Over time, Medicaid nursing home census grew and private pay census declined, as fewer people could afford the higher private pay rates and Medicaid eligibility became easier and easier to obtain.

A new practice of law--Medicaid estate planning--evolved to impoverish people artificially so they could qualify for Medicaid without spending down.

But the average person in terms of income and assets could qualify for Medicaid even without such legal machinations because of the program's generous eligibility criteria.

With supply and price capped and eligibility easier and easier to obtain, nursing homes could fill their beds by accepting Medicaid's low rates almost without regard to the quality of care they offered.

Thus arose the access and quality problems that led to heavy government regulation of nursing facilities.

Today, nursing homes are caught between the rock of inadequate reimbursement and the hard place of quality regulation.

Or, as I've heard industry executives express it: "the government expects Ritz Carlton care for Motel 6 rates while imposing a regulatory Jihad."

In the meantime, both Medicaid and Medicare have played a growing role in financing home care, which most people prefer, but which those programs cannot afford.

The result is that the public has been anesthetized to the risk of long-term care even as state and federal coffers have been emptied by government's efforts to help.

It's the same old story: good intentions led to unforeseen consequences.

That brings us to the most important question to ask: who WILL pay for long-term care in the future?

Certainly not government. That well is dry. No one is so naïve anymore as to expect a new publicly financed long-term care system to come along.

More and more, the hard reality is true: if you want access to quality long-term care at home or in the community, you must be able to pay privately for it.

As publicly financed long-term care continues to deteriorate, more and more people will turn to their home equity as the only way to pay for acceptable care.

Eighty percent of seniors own their homes and 73 percent of those own them free and clear. Nearly $2 trillion is available and easily accessible through home equity conversion, while still allowing borrowers to retain the use of their homes.

When the only choice becomes "inadequate welfare-financed long-term care or spend down your home equity to get quality care," more people will turn sooner to private insurance as a viable alternative.

With more people insured and paying privately at market rates, care choices and quality will improve for everyone, rich and poor alike.

With fewer people dependent on Medicaid, the welfare program will be better able to provide a wider range of higher quality care to the genuinely needy.

We will get to that point by default simply by staying on the current course, but many people will be hurt.

Or, we can remove the perverse incentives in public policy that currently trap people on Medicaid.

The single most important step to take is to stop using Medicaid as inheritance insurance for the baby boom generation.

We need to tighten eligibility, require spend down of illiquid home equity as a condition of eligibility, and enforce estate recovery requirements.

When the choice is "pay me now or pay me later," as in the old Fram oil filter commercial, most people will save, invest or insure for long-term care and everyone will be better off.

Thank you for your attention. I'll try to answer any questions you may have.